

AMENDED IN ASSEMBLY JULY 19, 2001
AMENDED IN ASSEMBLY JUNE 30, 2001
AMENDED IN ASSEMBLY JUNE 20, 2001
AMENDED IN SENATE JUNE 4, 2001
AMENDED IN SENATE APRIL 23, 2001

SENATE BILL

No. 459

Introduced by Senator McPherson
(Coauthor: Assembly Member Salinas)

February 22, 2001

An act to amend Section 50052.5 of, to amend, repeal, and add Section 33334.2 of, and to add and repeal Section 33334.22 of, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 459, as amended, McPherson. Housing programs: eligibility.

Existing law governing housing and home finance generally defines the term "affordable housing cost" to mean, with respect to very low, lower, and moderate-income households receiving assistance on or after January 1, 1991, housing costs not exceeding the product of a specified percentage times a specified percent of the area median income. Under existing law, this definition is used for determining, among other things, the affordability of housing made available pursuant to a requirement that a redevelopment agency allocate 20% of tax-increment revenues for housing available at affordable housing cost.

This bill would provide that those affordable housing cost percentages may be exceeded, as specified, when a redevelopment agency provides assistance to rehabilitate or reconstruct a home that is owned by a very low, lower, or moderate-income household.

This bill would separately define affordable housing cost for any redevelopment agency within Santa Cruz County, with that specified percentage increased, for purposes of the provisions requiring a redevelopment agency to allocate 20% of tax-increment revenues for housing available at affordable housing cost. The bill also would require the Department of Housing and Community Development to adopt specified regulations relative to housing affordability for purposes of the bill. These provisions would be repealed on January 1, 2005.

This bill would also impose specified reporting requirements on those redevelopment agencies and the Controller relating to the assistance provided by those agencies in Santa Cruz County.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 33334.2 of the Health and Safety Code
2 is amended to read:

3 33334.2. (a) Not less than 20 percent of all taxes that are
4 allocated to the agency pursuant to Section 33670 shall be used by
5 the agency for the purposes of increasing, improving, and
6 preserving the community's supply of low- and moderate-income
7 housing available at affordable housing cost, as defined by
8 Sections 33334.22 and 50052.5, to persons and families of low or
9 moderate income, as defined in Section 50093, and very low
10 income households, as defined in Section 50105, unless one of the
11 following findings is made annually by resolution:

12 (1) (A) That no need exists in the community to improve,
13 increase, or preserve the supply of low- and moderate-income
14 housing, including housing for very low income households in a
15 manner that would benefit the project area and that this finding is
16 consistent with the housing element of the community's general
17 plan required by Article 10.6 (commencing with Section 65580)
18 of Chapter 3 of Division 1 of Title 7 of the Government Code,
19 including its share of the regional housing needs of very low



1 income households and persons and families of low or moderate
2 income.

3 (B) This finding shall only be made if the housing element of
4 the community's general plan demonstrates that the community
5 does not have a need to improve, increase, or preserve the supply
6 of low- and moderate-income housing available at affordable
7 housing cost to persons and families of low or moderate income
8 and to very low income households. This finding shall only be
9 made if it is consistent with the planning agency's annual report to
10 the legislative body on implementation of the housing element
11 required by subdivision (b) of Section 65400 of the Government
12 Code. No agency of a charter city shall make this finding unless
13 the planning agency submits the report pursuant to subdivision (b)
14 of Section 65400 of the Government Code. This finding shall not
15 take effect until the agency has complied with subdivision (b) of
16 this section.

17 (2) (A) That some stated percentage less than 20 percent of the
18 taxes that are allocated to the agency pursuant to Section 33670 is
19 sufficient to meet the housing needs of the community, including
20 its share of the regional housing needs of persons and families of
21 low-or moderate-income and very low income households, and
22 that this finding is consistent with the housing element of the
23 community's general plan required by Article 10.6 (commencing
24 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
25 Government Code.

26 (B) This finding shall only be made if the housing element of
27 the community's general plan demonstrates that a percentage of
28 less than 20 percent will be sufficient to meet the community's
29 need to improve, increase, or preserve the supply of low- and
30 moderate-income housing available at affordable housing cost to
31 persons and families of low or moderate income and to very low
32 income households. This finding shall only be made if it is
33 consistent with the planning agency's annual report to the
34 legislative body on implementation of the housing element
35 required by subdivision (b) of Section 65400 of the Government
36 Code. No agency of a charter city shall make this finding unless
37 the planning agency submits the report pursuant to subdivision (b)
38 of Section 65400 of the Government Code. This finding shall not
39 take effect until the agency has complied with subdivision (b) of
40 this section.

1 (C) For purposes of making the findings specified in this
2 paragraph and paragraph (1), the housing element of the general
3 plan of a city or county shall be current, shall have been submitted
4 to the Department of Housing and Community Development
5 within the applicable time period, and shall be in compliance with
6 Article 10.6 (commencing with Section 65580) of Chapter 3 of
7 Division 1 of Title 7 of the Government Code.

8 (3) (A) That the community is making a substantial effort to
9 meet its existing and projected housing needs, including its share
10 of the regional housing needs, with respect to persons and families
11 of low and moderate income, particularly very low income
12 households, as identified in the housing element of the
13 community's general plan required by Article 10.6 (commencing
14 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
15 Government Code, and that this effort, consisting of direct
16 financial contributions of local funds used to increase and improve
17 the supply of housing affordable to persons and families of low or
18 moderate income and very low income households, is equivalent
19 in impact to the funds otherwise required to be set aside pursuant
20 to this section. In addition to any other local funds, these direct
21 financial contributions may include federal or state grants paid
22 directly to a community and which the community has the
23 discretion of using for the purposes for which moneys in the Low
24 and Moderate Income Housing Fund may be used. The legislative
25 body shall consider the need that can be reasonably foreseen
26 because of displacement of persons and families of low or
27 moderate income or very low income households from within, or
28 adjacent to, the project area, because of increased employment
29 opportunities, or because of any other direct or indirect result of
30 implementation of the redevelopment plan. No finding under this
31 subdivision may be made until the community has provided or
32 ensured the availability of replacement dwelling units as defined
33 in Section 33411.2 and until it has complied with Article 9
34 (commencing with Section 33410).

35 (B) In making the determination that other financial
36 contributions are equivalent in impact pursuant to this subdivision,
37 the agency shall include only those financial contributions that are
38 directly related to programs or activities authorized under
39 subdivision (e) of this section.



(C) The authority for making the finding specified in this paragraph shall expire on June 30, 1993, except that the expiration shall not be deemed to impair contractual obligations to bondholders or private entities incurred prior to May 1, 1991, and made in reliance on this paragraph. Agencies that make this finding after June 30, 1993, shall show evidence that the agency entered into the specific contractual obligation with the specific intention of making a finding under this paragraph in order to provide sufficient revenues to pay off the indebtedness.

(b) Within 10 days following the making of a finding under either paragraph (1) or (2) of subdivision (a), the agency shall send the department a copy of the finding, including the factual information supporting the finding and other factual information in the housing element that demonstrates that either (1) the community does not need to increase, improve, or preserve the supply of housing for low- and moderate-income households, including very low income households, or (2) a percentage less than 20 percent will be sufficient to meet the community's need to improve, increase, and preserve the supply of housing for low- and moderate-income households, including very low income households. Within 10 days following the making of a finding under paragraph (3) of subdivision (a), the agency shall send the department a copy of the finding, including the factual information supporting the finding that the community is making a substantial effort to meet its existing and projected housing needs. Agencies that make this finding after June 30, 1993, shall also submit evidence to the department of its contractual obligations with bondholders or private entities incurred prior to May 1, 1991, and made in reliance on this finding.

(c) In any litigation to challenge or attack a finding made under paragraph (1), (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that the finding is supported by substantial evidence in light of the entire record before the agency. If an agency is determined by a court to have knowingly misrepresented any material facts regarding the community's share of its regional housing need for low- and moderate-income housing, including very low income households, or the community's production record in meeting its share of the regional housing need pursuant to the report required by subdivision (b) of Section 65400 of the Government Code, the agency shall be liable

1 for all court costs and plaintiff's attorney's fees, and shall be
2 required to allocate not less than 25 percent of the agency's tax
3 increment revenues to its Low and Moderate Income Housing
4 Fund in each year thereafter.

5 (d) Nothing in this section shall be construed as relieving any
6 other public entity or entity with the power of eminent domain of
7 any legal obligations for replacement or relocation housing arising
8 out of its activities.

9 (e) In carrying out the purposes of this section, the agency may
10 exercise any or all of its powers, including the following:

11 (1) Acquire real property or building sites subject to Section
12 33334.16.

13 (2) Improve real property or building sites with onsite or offsite
14 improvements, but only if either (A) the improvements are made
15 as part of a program which results in the new construction or
16 rehabilitation of affordable housing units for low- or
17 moderate-income persons that are directly benefited by the
18 improvements or (B) the agency finds that the improvements are
19 necessary to eliminate a specific condition that jeopardizes the
20 health or safety of existing low- or moderate-income residents.

21 (3) Donate real property to private or public persons or entities.

22 (4) Finance insurance premiums pursuant to Section 33136.

23 (5) Construct buildings or structures.

24 (6) Acquire buildings or structures.

25 (7) Rehabilitate buildings or structures.

26 (8) Provide subsidies to, or for the benefit of, very low income
27 households, as defined by Section 50105, lower income
28 households, as defined by Section 50079.5, or persons and
29 families of low or moderate income, as defined by Section 50093,
30 to the extent those households cannot obtain housing at affordable
31 costs on the open market. Housing units available on the open
32 market are those units developed without direct government
33 subsidies.

34 (9) Develop plans, pay principal and interest on bonds, loans,
35 advances, or other indebtedness, or pay financing or carrying
36 charges.

37 (10) Maintain the community's supply of mobilehomes.

38 (11) Preserve the availability to lower income households of
39 affordable housing units in housing developments which are



1 assisted or subsidized by public entities and which are threatened
2 with imminent conversion to market rates.

3 (f) The agency may use these funds to meet, in whole or in part,
4 the replacement housing provisions in Section 33413. However,
5 nothing in this section shall be construed as limiting in any way the
6 requirements of that section.

7 (g) (1) The agency may use these funds inside or outside the
8 project area. The agency may only use these funds outside the
9 project area upon a resolution of the agency and the legislative
10 body that the use will be of benefit to the project. The
11 determination by the agency and the legislative body shall be final
12 and conclusive as to the issue of benefit to the project area. The
13 Legislature finds and declares that the provision of replacement
14 housing pursuant to Section 33413 is always of benefit to a project.
15 Unless the legislative body finds, before the redevelopment plan
16 is adopted, that the provision of low- and moderate-income
17 housing outside the project area will be of benefit to the project,
18 the project area shall include property suitable for low- and
19 moderate-income housing.

20 (2) (A) The Contra Costa County Redevelopment Agency
21 may use these funds anywhere within the unincorporated territory,
22 or within the incorporated limits of the City of Walnut Creek on
23 sites contiguous to the Pleasant Hill BART Station Area
24 Redevelopment Project area. The agency may only use these funds
25 outside the project area upon a resolution of the agency and board
26 of supervisors determining that the use will be of benefit to the
27 project area. In addition, the agency may use these funds within the
28 incorporated limits of the City of Walnut Creek only if the agency
29 and the board of supervisors find all of the following:

30 (i) Both the County of Contra Costa and the City of Walnut
31 Creek have adopted and are implementing complete and current
32 housing elements of their general plans that the department has
33 determined to be in compliance with the requirements of Article
34 10.6 (commencing with Section 65580) of Chapter 3 of Division
35 1 of Title 7 of the Government Code.

36 (ii) The development to be funded shall not result in any
37 residential displacement from the site where the development is to
38 be built.



1 (iii) The development to be funded shall not be constructed in
2 an area that currently has more than 50 percent of its population
3 comprised of racial minorities or low-income families.

4 (iv) The development to be funded shall allow construction of
5 affordable housing closer to a rapid transit station than could be
6 constructed in the unincorporated territory outside the Pleasant
7 Hill BART Station Area Redevelopment Project.

8 (B) If the agency uses these funds within the incorporated
9 limits of the City of Walnut Creek, all of the following
10 requirements shall apply:

11 (i) The funds shall be used only for the acquisition of land for,
12 and the design and construction of, the development of housing
13 containing units affordable to low- and moderate-income persons.

14 (ii) If less than all the units in the development are affordable
15 to low- or moderate-income persons, any agency assistance shall
16 not exceed the amount needed to make the housing affordable to
17 low- or moderate-income persons.

18 (iii) The units in the development that are affordable to low- or
19 moderate-income persons shall remain affordable for a period of
20 at least 55 years.

21 (iv) The agency and the City of Walnut Creek shall determine,
22 if applicable, whether Article XXXIV of the California
23 Constitution permits the development.

24 (h) The Legislature finds and declares that expenditures or
25 obligations incurred by the agency pursuant to this section shall
26 constitute an indebtedness of the project.

27 (i) The requirements of this section shall only apply to taxes
28 allocated to a redevelopment agency for which a final
29 redevelopment plan is adopted on or after January 1, 1977, or for
30 any area that is added to a project by an amendment to a
31 redevelopment plan, which amendment is adopted on or after the
32 effective date of this section. An agency may, by resolution, elect
33 to make all or part of the requirements of this section applicable
34 to any redevelopment project for which a redevelopment plan was
35 adopted prior to January 1, 1977, subject to any indebtedness
36 incurred prior to the election.

37 (j) This section shall remain in effect only until January 1,
38 2005, and as of that date is repealed, unless a later enacted statute,
39 that is enacted before January 1, 2005, deletes or extends that date.

SEC. 2. Section 33334.2 is added to the Health and Safety Code, to read:

33334.2. (a) Not less than 20 percent of all taxes that are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, unless one of the following findings is made annually by resolution:

(1) (A) That no need exists in the community to improve, increase, or preserve the supply of low- and moderate-income housing, including housing for very low income households in a manner that would benefit the project area and that this finding is consistent with the housing element of the community's general plan required by Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, including its share of the regional housing needs of very low income households and persons and families of low or moderate income.

(B) This finding shall only be made if the housing element of the community's general plan demonstrates that the community does not have a need to improve, increase, or preserve the supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and to very low income households. This finding shall only be made if it is consistent with the planning agency's annual report to the legislative body on implementation of the housing element required by subdivision (b) of Section 65400 of the Government Code. No agency of a charter city shall make this finding unless the planning agency submits the report pursuant to subdivision (b) of Section 65400 of the Government Code. This finding shall not take effect until the agency has complied with subdivision (b) of this section.

(2) (A) That some stated percentage less than 20 percent of the taxes that are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community, including its share of the regional housing needs of persons and families of low or moderate income and very low income households, and that

1 this finding is consistent with the housing element of the
2 community's general plan required by Article 10.6 (commencing
3 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
4 Government Code.

5 (B) This finding shall only be made if the housing element of
6 the community's general plan demonstrates that a percentage of
7 less than 20 percent will be sufficient to meet the community's
8 need to improve, increase, or preserve the supply of low- and
9 moderate-income housing available at affordable housing cost to
10 persons and families of low or moderate income and to very low
11 income households. This finding shall only be made if it is
12 consistent with the planning agency's annual report to the
13 legislative body on implementation of the housing element
14 required by subdivision (b) of Section 65400 of the Government
15 Code. No agency of a charter city shall make this finding unless
16 the planning agency submits the report pursuant to subdivision (b)
17 of Section 65400 of the Government Code. This finding shall not
18 take effect until the agency has complied with subdivision (b) of
19 this section.

20 (C) For purposes of making the findings specified in this
21 paragraph and paragraph (1), the housing element of the general
22 plan of a city or county shall be current, shall have been submitted
23 to the Department of Housing and Community Development
24 within the applicable time period, and shall be in compliance with
25 Article 10.6 (commencing with Section 65580) of Chapter 3 of
26 Division 1 of Title 7 of the Government Code.

27 (3) (A) That the community is making a substantial effort to
28 meet its existing and projected housing needs, including its share
29 of the regional housing needs, with respect to persons and families
30 of low and moderate income, particularly very low income
31 households, as identified in the housing element of the
32 community's general plan required by Article 10.6 (commencing
33 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
34 Government Code, and that this effort, consisting of direct
35 financial contributions of local funds used to increase and improve
36 the supply of housing affordable to persons and families of low or
37 moderate income and very low income households, is equivalent
38 in impact to the funds otherwise required to be set aside pursuant
39 to this section. In addition to any other local funds, these direct
40 financial contributions may include federal or state grants paid

1 directly to a community and which the community has the
2 discretion of using for the purposes for which moneys in the Low
3 and Moderate Income Housing Fund may be used. The legislative
4 body shall consider the need that can be reasonably foreseen
5 because of displacement of persons and families of low or
6 moderate income or very low income households from within, or
7 adjacent to, the project area, because of increased employment
8 opportunities, or because of any other direct or indirect result of
9 implementation of the redevelopment plan. No finding under this
10 subdivision may be made until the community has provided or
11 ensured the availability of replacement dwelling units as defined
12 in Section 33411.2 and until it has complied with Article 9
13 (commencing with Section 33410).

14 (B) In making the determination that other financial
15 contributions are equivalent in impact pursuant to this subdivision,
16 the agency shall include only those financial contributions that are
17 directly related to programs or activities authorized under
18 subdivision (e) of this section.

19 (C) The authority for making the finding specified in this
20 paragraph shall expire on June 30, 1993, except that the expiration
21 shall not be deemed to impair contractual obligations to
22 bondholders or private entities incurred prior to May 1, 1991, and
23 made in reliance on this paragraph. Agencies that make this
24 finding after June 30, 1993, shall show evidence that the agency
25 entered into the specific contractual obligation with the specific
26 intention of making a finding under this paragraph in order to
27 provide sufficient revenues to pay off the indebtedness.

28 (b) Within 10 days following the making of a finding under
29 either paragraph (1) or (2) of subdivision (a), the agency shall send
30 the department a copy of the finding, including the factual
31 information supporting the finding and other factual information
32 in the housing element that demonstrates that either (1) the
33 community does not need to increase, improve, or preserve the
34 supply of housing for low- and moderate-income households,
35 including very low income households, or (2) a percentage less
36 than 20 percent will be sufficient to meet the community's need to
37 improve, increase, and preserve the supply of housing for low- and
38 moderate-income households, including very low income
39 households. Within 10 days following the making of a finding
40 under paragraph (3) of subdivision (a), the agency shall send the

1 department a copy of the finding, including the factual information
2 supporting the finding that the community is making a substantial
3 effort to meet its existing and projected housing needs. Agencies
4 that make this finding after June 30, 1993, shall also submit
5 evidence to the department of its contractual obligations with
6 bondholders or private entities incurred prior to May 1, 1991, and
7 made in reliance on this finding.

8 (c) In any litigation to challenge or attack a finding made under
9 paragraph (1), (2), or (3) of subdivision (a), the burden shall be
10 upon the agency to establish that the finding is supported by
11 substantial evidence in light of the entire record before the agency.
12 If an agency is determined by a court to have knowingly
13 misrepresented any material facts regarding the community's
14 share of its regional housing need for low- and moderate-income
15 housing, including very low income households, or the
16 community's production record in meeting its share of the regional
17 housing need pursuant to the report required by subdivision (b) of
18 Section 65400 of the Government Code, the agency shall be liable
19 for all court costs and plaintiff's attorney's fees, and shall be
20 required to allocate not less than 25 percent of the agency's tax
21 increment revenues to its Low and Moderate Income Housing
22 Fund in each year thereafter.

23 (d) Nothing in this section shall be construed as relieving any
24 other public entity or entity with the power of eminent domain of
25 any legal obligations for replacement or relocation housing arising
26 out of its activities.

27 (e) In carrying out the purposes of this section, the agency may
28 exercise any or all of its powers, including the following:

29 (1) Acquire real property or building sites subject to Section
30 33334.16.

31 (2) Improve real property or building sites with onsite or offsite
32 improvements, but only if either (A) the improvements are made
33 as part of a program which results in the new construction or
34 rehabilitation of affordable housing units for low- or
35 moderate-income persons that are directly benefited by the
36 improvements or (B) the agency finds that the improvements are
37 necessary to eliminate a specific condition that jeopardizes the
38 health or safety of existing low- or moderate-income residents.

39 (3) Donate real property to private or public persons or entities.

40 (4) Finance insurance premiums pursuant to Section 33136.

1 (5) Construct buildings or structures.

2 (6) Acquire buildings or structures.

3 (7) Rehabilitate buildings or structures.

4 (8) Provide subsidies to, or for the benefit of, very low income
5 households, as defined by Section 50105, lower income
6 households, as defined by Section 50079.5, or persons and
7 families of low or moderate income, as defined by Section 50093,
8 to the extent those households cannot obtain housing at affordable
9 costs on the open market. Housing units available on the open
10 market are those units developed without direct government
11 subsidies.

12 (9) Develop plans, pay principal and interest on bonds, loans,
13 advances, or other indebtedness, or pay financing or carrying
14 charges.

15 (10) Maintain the community's supply of mobilehomes.

16 (11) Preserve the availability to lower income households of
17 affordable housing units in housing developments which are
18 assisted or subsidized by public entities and which are threatened
19 with imminent conversion to market rates.

20 (f) The agency may use these funds to meet, in whole or in part,
21 the replacement housing provisions in Section 33413. However,
22 nothing in this section shall be construed as limiting in any way the
23 requirements of that section.

24 (g) (1) The agency may use these funds inside or outside the
25 project area. The agency may only use these funds outside the
26 project area upon a resolution of the agency and the legislative
27 body that the use will be of benefit to the project. The
28 determination by the agency and the legislative body shall be final
29 and conclusive as to the issue of benefit to the project area. The
30 Legislature finds and declares that the provision of replacement
31 housing pursuant to Section 33413 is always of benefit to a project.
32 Unless the legislative body finds, before the redevelopment plan
33 is adopted, that the provision of low- and moderate-income
34 housing outside the project area will be of benefit to the project,
35 the project area shall include property suitable for low- and
36 moderate-income housing.

37 (2) (A) The Contra Costa County Redevelopment Agency
38 may use these funds anywhere within the unincorporated territory,
39 or within the incorporated limits of the City of Walnut Creek on
40 sites contiguous to the Pleasant Hill BART Station Area

1 Redevelopment Project area. The agency may only use these funds
2 outside the project area upon a resolution of the agency and board
3 of supervisors determining that the use will be of benefit to the
4 project area. In addition, the agency may use these funds within the
5 incorporated limits of the City of Walnut Creek only if the agency
6 and the board of supervisors find all of the following:

7 (i) Both the County of Contra Costa and the City of Walnut
8 Creek have adopted and are implementing complete and current
9 housing elements of their general plans that the department has
10 determined to be in compliance with the requirements of Article
11 10.6 (commencing with Section 65580) of Chapter 3 of Division
12 1 of Title 7 of the Government Code.

13 (ii) The development to be funded shall not result in any
14 residential displacement from the site where the development is to
15 be built.

16 (iii) The development to be funded shall not be constructed in
17 an area that currently has more than 50 percent of its population
18 comprised of racial minorities or low-income families.

19 (iv) The development to be funded shall allow construction of
20 affordable housing closer to a rapid transit station than could be
21 constructed in the unincorporated territory outside the Pleasant
22 Hill BART Station Area Redevelopment Project.

23 (B) If the agency uses these funds within the incorporated
24 limits of the City of Walnut Creek, all of the following
25 requirements shall apply:

26 (i) The funds shall be used only for the acquisition of land for,
27 and the design and construction of, the development of housing
28 containing units affordable to low- and moderate-income persons.

29 (ii) If less than all the units in the development are affordable
30 to low- or moderate-income persons, any agency assistance shall
31 not exceed the amount needed to make the housing affordable to
32 low- or moderate-income persons.

33 (iii) The units in the development that are affordable to low- or
34 moderate-income persons shall remain affordable for a period of
35 at least 55 years.

36 (iv) The agency and the City of Walnut Creek shall determine,
37 if applicable, whether Article XXXIV of the California
38 Constitution permits the development.



1 (h) The Legislature finds and declares that expenditures or
2 obligations incurred by the agency pursuant to this section shall
3 constitute an indebtedness of the project.

4 (i) The requirements of this section shall only apply to taxes
5 allocated to a redevelopment agency for which a final
6 redevelopment plan is adopted on or after January 1, 1977, or for
7 any area that is added to a project by an amendment to a
8 redevelopment plan, which amendment is adopted on or after the
9 effective date of this section. An agency may, by resolution, elect
10 to make all or part of the requirements of this section applicable
11 to any redevelopment project for which a redevelopment plan was
12 adopted prior to January 1, 1977, subject to any indebtedness
13 incurred prior to the election.

14 (j) This section shall become operative on January 1, 2005.

15 SEC. 3. Section 33334.22 is added to the Health and Safety
16 Code, to read:

17 33334.22. (a) The Legislature finds and declares that in order
18 to avoid serious economic hardships and accompanying blight, it
19 is necessary to enact this section, which shall apply only within
20 Santa Cruz County, and which is enacted for the purpose of
21 providing housing assistance to very low, lower, and
22 moderate-income households.

23 (b) Notwithstanding Section 50052.5, any redevelopment
24 agency within Santa Cruz County may make assistance available
25 from its low- and moderate-income housing fund directly to a
26 homebuyer for the purchase of an owner-occupied home, and for
27 purposes of that assistance and this section, “affordable housing
28 cost” shall not exceed the following:

29 (1) For very low income households, the product of 40 percent
30 times 50 percent of the area median income adjusted for family
31 size appropriate for the unit.

32 (2) For lower income households whose gross incomes exceed
33 the maximum income for very low income households and do not
34 exceed 70 percent of the area median income adjusted for family
35 size, the product of 40 percent times 70 percent of the area median
36 income adjusted for family size appropriate for the unit. In
37 addition, for any lower income household that has a gross income
38 that equals or exceeds 70 percent of the area median income
39 adjusted for family size, it shall be optional for any state or local

1 funding agency to require that the affordable housing cost not
2 exceed 40 percent of the gross income of the household.

3 (3) For moderate income households, affordable housing cost
4 shall not exceed the product of 40 percent times 110 percent of the
5 area median income adjusted for family size appropriate for the
6 unit. In addition, for any moderate-income household that has a
7 gross income that exceeds 110 percent of the area median income
8 adjusted for family size, it shall be optional for any state or local
9 funding agency to require that affordable housing cost not exceed
10 40 percent of the gross income of the household.

11 ~~(c) The Department of Housing and Community Development~~
12 ~~shall adopt, by regulation, criteria defining, and providing for~~
13 ~~determination of, gross income, adjustments for family size~~
14 ~~appropriate to the unit, and housing cost for purposes of~~
15 ~~determining affordable housing cost under this section. These~~
16 ~~regulations may provide alternative criteria, where necessary to be~~
17 ~~consistent with pertinent federal statutes and regulations~~
18 ~~governing federally assisted housing.~~

19 ~~(d) Regulations of the department shall also include a method~~
20 ~~of determining the maximum construction cost, mortgage loan, or~~
21 ~~sales price that will make housing available to an income group at~~
22 ~~the affordable housing cost.~~

23 ~~(e) For purposes of this section, the following terms shall have~~
24 ~~the following meanings:~~

25 ~~(1) “Area median income” means area median income as~~
26 ~~published by the department pursuant to Section 50093.~~

27 ~~(2) “Lower income household” has the same meaning as in~~
28 ~~Section 50079.5.~~

29 ~~(3) “Moderate-income household” has the same meaning as~~
30 ~~“persons and families of moderate income” as defined in Section~~
31 ~~50093.~~

32 ~~(4) “Very low income households” has the same meaning as in~~
33 ~~Section 50105.~~

34 ~~(5) If there are no pertinent federal statutes applicable to a~~
35 ~~project or program, “adjusted for family size appropriate to the~~
36 ~~unit” means for a household of one person in the case of a studio~~
37 ~~unit, two persons in the case of a one-bedroom unit, three persons~~
38 ~~in the case of a two-bedroom unit, four persons in the case of a~~
39 ~~three-bedroom unit, and five persons in the case of a four-bedroom~~
40 ~~unit.~~

~~(f)~~—

(c) Any agency in Santa Cruz County that provides assistance pursuant to this section shall include in the annual report to the Controller, pursuant to Sections 33080 and 33080.1, all of the following information:

(1) The sales price of homes and a comparison of the sales price of homes in the years 2000 and 2001.

(2) The income levels served and a comparison of the income levels served in the years 2000 and 2001.

(3) Whether the loan was for rehabilitation only or for rehabilitation and purchase.

~~(g)~~—

(d) Except as provided in subdivision (b), all provisions of Section 50052.5, including any definitions, requirements, standards, and regulations adopted to implement those provisions, shall apply to this section.

(e) This section shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 4. Section 50052.5 of the Health and Safety Code is amended to read:

50052.5. (a) For any owner-occupied housing that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, “affordable housing cost” with respect to lower income households shall not exceed 25 percent of gross income.

(b) For any owner-occupied housing that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, “affordable housing cost” shall not exceed the following:

(1) For very low income households the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For lower income households whose gross incomes exceed the maximum income for very low income households and do not exceed 70 percent of the area median income adjusted for family size, the product of 30 percent times 70 percent of the area median income adjusted for family size appropriate for the unit. In addition, for any lower income household that has a gross income that equals or exceeds 70 percent of the area median income

1 adjusted for family size, it shall be optional for any state or local
2 funding agency to require that the affordable housing cost not
3 exceed 30 percent of the gross income of the household.

4 (3) For moderate income households, affordable housing cost
5 shall not be less than 28 percent of the gross income of the
6 household, nor exceed the product of 35 percent times 110 percent
7 of area median income adjusted for family size appropriate for the
8 unit. In addition, for any moderate-income household that has a
9 gross income that exceeds 110 percent of the area median income
10 adjusted for family size, it shall be optional for any state or local
11 funding agency to require that the affordable housing cost not
12 exceed 35 percent of the gross income of the household.

13 (c) The affordable housing cost percentages listed in
14 subdivision (b) may be exceeded when a redevelopment agency
15 provides assistance to rehabilitate or reconstruct a home that is
16 owned by a very low income, lower income, or moderate-income
17 household. In that event, the household's current housing costs
18 may be considered to be "affordable housing costs" for the
19 purposes of this section.

20 (d) The department shall, by regulation, adopt criteria defining,
21 and providing for determination of, gross income, adjustments for
22 family size appropriate to the unit, and housing cost for purposes
23 of determining affordable housing cost under this section. These
24 regulations may provide alternative criteria, where necessary to be
25 consistent with pertinent federal statutes and regulations
26 governing federally assisted housing. The agency may, by
27 regulation, adopt alternative criteria, and pursuant to subdivision
28 (f) of Section 50462, alternative percentages of income may be
29 adopted for agency-assisted housing development.

30 (e) With respect to moderate-and lower income households
31 who are tenants of rental housing developments and members or
32 shareholders of cooperative housing developments, or limited
33 equity cooperatives "affordable housing cost" has the same
34 meaning as affordable rent, as defined in Section 50053.

35 (f) Regulations of the department shall also include a method
36 for determining the maximum construction cost, mortgage loan,
37 or sales price that will make housing available to an income group
38 at affordable housing cost.

1 (g) For purposes of this section, “area median income” shall
2 mean area median income as published by the department pursuant
3 to Section 50093.

4 (h) For purposes of this section, “moderate-income
5 household” shall have the same meaning as “persons and families
6 of moderate income” as defined in Section 50093.

7 (i) For purposes of this section, and provided there are no
8 pertinent federal statutes applicable to a project or program,
9 “adjusted for family size appropriate to the unit” shall mean for
10 a household of one person in the case of a studio unit, two persons
11 in the case of a one-bedroom unit, three persons in the case of a
12 two-bedroom unit, four persons in the case of a three-bedroom
13 unit, and five persons in the case of a four-bedroom unit.

14 *SEC. 5. The Controller shall furnish a compilation of the*
15 *information described in subdivision (f) of Section 33334.22 of the*
16 *Health and Safety Code to the Legislature and the Director of*
17 *Housing and Community Development no later than April 1, 2005.*

